

1 HOWARD A. HENRY

12:14:12 2 Q. And those are the two
12:14:17 3 degrees that you described earlier
12:14:19 4 today, correct?

12:14:20 5 A. Correct.

12:14:21 6 Q. If we can move forward
12:14:29 7 chronologically and if you could tell
12:14:31 8 me what the next position is that you
12:14:35 9 applied for at Wyeth and that you were
12:14:39 10 denied.

12:14:40 11 A. It would have to be maybe
12:14:58 12 the manager's position that was made
12:15:02 13 available in 2004.

12:15:10 14 Q. And what position was that?
12:15:12 15 What group was that with?

12:15:13 16 A. That was in the group I was
12:15:15 17 working with. They changed the title
12:15:19 18 from train to PPU which is primary
12:15:21 19 processing unit, so the position was
12:15:24 20 reporting to the person who I reported
12:15:26 21 to at the time which was Andrew Espejo.

12:15:32 22 Q. So this was a new position,
12:15:36 23 did not previously exist?

12:15:37 24 A. Basically there was a
12:15:43 25 supervisor lead position that they

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changed the title to to a manager's position, and the supervisor lead position became what was now called the manager of PPU 1. It was a manager's position that was created.

Q. So no one held this position previously?

A. Yes.

Q. Is that fair to say?

A. Well, the title, no one held the title previously but the position itself was just transposed into a title.

Q. And who held the --

A. Michael Collaraffi, and prior to that -- well, excuse me, let me rephrase that. Joe Torres, he did it on an interim basis. Prior to that was Mike Collaraffi, and before that it was Todd Davenport.

Q. How did you learn about this position?

A. They had mentioned it through discussions within the area and

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12:16:51 2

then it became officially document --

12:16:56 3

posted I think in September/October of

12:16:59 4

2004 I think.

12:17:09 5

Q. And did you submit a bid for

12:17:11 6

this position?

12:17:11 7

A. Yes.

12:17:11 8

Q. Were you interviewed for the

12:17:13 9

position?

12:17:13 10

A. Yes.

12:17:14 11

Q. Who were you interviewed by?

12:17:15 12

A. There was a panel consisting

12:17:17 13

of Derek Burt, Cara Muscolo, Andrew

12:17:22 14

Espejo, and I think Chris DeFeciani.

12:17:27 15

Q. So you interviewed with them

12:17:30 16

simultaneously?

12:17:30 17

A. Yes.

12:17:37 18

Q. What do you recall from the

12:17:39 19

interview?

12:17:39 20

A. They asked a series of

12:17:41 21

questions, it was structured and the

12:17:42 22

interview was based -- the interview

12:17:44 23

was based on a series of questions each

12:17:46 24

of the panelists had.

12:17:48 25

Q. Did you get the sense it was

1

HOWARD A. HENRY

12:17:49 2

a series of predetermined questions?

12:17:51 3

A. Yes.

12:17:56 4

Q. Did you talk to any other

12:17:57 5

people that interviewed for the same

12:17:59 6

position?

12:17:59 7

A. Yes.

12:18:02 8

Q. Who was that that you spoke

12:18:03 9

to?

12:18:04 10

A. I spoke to Joe Torres.

12:18:12 11

That's all I can recall at this time.

12:18:13 12

Q. Did Mr. Torres tell you

12:18:15 13

about his interview?

12:18:16 14

A. Yes.

12:18:16 15

Q. Did he tell you he was asked

12:18:18 16

the same series of questions?

12:18:19 17

A. Yes.

12:18:21 18

Q. Do you know who else applied

12:18:24 19

for this position besides yourself and

12:18:27 20

Mr. Torres?

12:18:28 21

A. I know they went around

12:18:30 22

asking people to interview.

12:18:32 23

Q. Who's they? Who asked

12:18:34 24

people to interview?

12:18:35 25

A. Andrew Espejo was asking

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12:18:37 2 certain people to interview for the
12:18:39 3 position.

12:18:40 4 Q. Did he ask you to interview?

12:18:42 5 A. No.

12:18:43 6 Q. Did you discuss interviewing
12:18:47 7 with him at all?

12:18:48 8 A. Yes.

12:18:49 9 Q. And what did you discuss
12:18:51 10 with him, could you tell me about those
12:18:53 11 conversations?

12:18:53 12 A. I said basically the duties
12:18:57 13 that are described here and that were
12:18:59 14 done by the previous individuals they
12:19:01 15 came to me to understand about the
12:19:04 16 position and to make their job easier
12:19:08 17 and I helped them out and I definitely
12:19:10 18 feel that I definitely qualify for this
12:19:13 19 position. He said let's see what the
12:19:15 20 interview brings up and let's see what
12:19:17 21 happens..

12:19:19 22 Q. Do you know who the
12:19:27 23 ultimate -- you've explained to me who
12:19:29 24 interviewed, who the individuals were
12:19:31 25 who conducted the interview. Do you

1 HOWARD A. HENRY

12:28:51 2 A. No.

12:29:56 3 MR. McQUADE: Can you mark
12:29:57 4 this, please.

5 (Henry Exhibit 8 for
6 identification, Bates stamped 1531,
12:30:08 7 1526 and 1524.)

12:30:08 8 Q. Mr. Henry, I've handed you a
12:30:09 9 document which we've marked as Exhibit
12:30:11 10 8. It looks like a series of three
12:30:16 11 separate emails which we've stapled
12:30:18 12 together. Looking at the first page
12:30:20 13 can you tell me what this is?

12:30:24 14 A. The first page seems to be a
12:30:26 15 formal email stating that they received
12:30:33 16 my bid.

12:30:36 17 Q. And the email, whoever wrote
12:30:38 18 this email is also advising you that
12:30:40 19 the position you're applying for is
12:30:42 20 three grade levels -- or more than two
12:30:44 21 grade levels above your current
12:30:46 22 position; is that correct?

12:30:46 23 A. Correct.

12:30:47 24 Q. Were you aware of the fact
12:30:53 25 that this position was three grade

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12:30:55 2 levels above your current position when
12:31:01 3 you were applying for the position?

12:31:02 4 A. No.

12:31:04 5 Q. Do you believe you were
12:31:13 6 denied this position because of your
12:31:16 7 race or because you were being
12:31:20 8 discriminated against or retaliated
12:31:22 9 against in any way?

12:31:23 10 A. Yes.

12:31:23 11 Q. Can you explain that for me,
12:31:27 12 please?

12:31:27 13 A. Basically I qualified for
12:31:31 14 the position. Individuals who held
12:31:34 15 this position I helped guide and give
12:31:38 16 advice to and helped do duties
12:31:42 17 associated with the position. Most
12:31:44 18 managers who interviewed me were
12:31:47 19 appointed their position. They didn't
12:31:48 20 have to interview for them. They were
12:31:51 21 given those positions.

12:31:52 22 This position was made a
12:31:54 23 formal bid to sort of make a structure
12:31:57 24 around it and it was -- it was kind of
12:32:03 25 formalized when as far as other

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positions that were available for other managers, they didn't have a formal bidding structure like this. It was restructured so they can actually be given this position.

The title was changed from senior supervisor to manufacturing support with exactly the same duties. I qualified for it, I applied for it, I was the most qualified at the time for it in terms of the duties, in terms of track record, in terms of years of service in the department, and I definitely felt that I was discriminated against when it came to this position.

Q. And your basis for that belief is as you just described, correct?

A. Yes.

Q. Is there any other basis for that belief?

A. No.

Q. Do you have any reason to

1 HOWARD A. HENRY

2 A F T E R N O O N S E S S I O N

13:43:59 3 1:44 p.m.

13:43:59 4 THE VIDEO OPERATOR: Returning
13:44:14 5 to the record at 1:44 from 12:45.

6 H O W A R D A. H E N R Y,
7 resumed, having been previously duly
8 sworn, was examined and testified further
9 as follows:

10 (Henry Exhibit 10 for
11 identification, Bates stamped 4330
13:44:39 12 through 4334.)

13:44:39 13 EXAMINATION BY MR. McQUADE:

13:44:41 14 Q. Mr. Henry, I'm handing you a
13:44:46 15 document that's been marked Exhibit 10,
13:44:48 16 I believe, yes, Exhibit 10. Do you
13:44:49 17 recognize this document?

13:44:50 18 A. Yes.

13:44:51 19 Q. And what is it?

13:44:52 20 A. It's my performance planning
13:44:56 21 and appraisal of 2000.

13:44:58 22 Q. Do you typically, or during
13:45:03 23 your employment at Wyeth did you
13:45:05 24 typically receive such a performance
13:45:08 25 planning and appraisal each year?

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13:45:11 2 A. They changed the structure
13:45:12 3 from time to time. They changed the
13:45:14 4 criteria from time to time, how they
13:45:17 5 did it. But you got appraised every
13:45:19 6 year.

13:45:19 7 Q. And how did that appraisal
13:45:21 8 process work?

13:45:22 9 A. Depending on the year, your
13:45:28 10 supervisor would discuss your
13:45:30 11 achievements and goals at the end of a
13:45:32 12 particular year. So in this case, it
13:45:40 13 went from January 2000 to December of
13:45:46 14 2000.

13:45:46 15 Q. And did you typically meet
13:45:48 16 with the manager or supervisor who
13:45:51 17 completed the performance evaluation
13:45:53 18 for you?

13:45:53 19 A. Yes.

13:45:54 20 Q. And who was the supervisor
13:45:58 21 that performed this performance
13:45:59 22 evaluation?

13:46:00 23 A. Walter Wardrop.

13:46:03 24 Q. And did you meet with Mr.
13:46:04 25 Wardrop regarding this performance

HOWARD A. HENRY

13:46:07 2 evaluation?

13:46:07 3 A. Yes.

13:46:08 4 Q. Do you recall anything about
13:46:11 5 that meeting in particular, what he
13:46:15 6 said, what you said, what was
13:46:16 7 discussed?

13:46:17 8 A. He asked, he said that he
13:46:22 9 got feedback from my previous
13:46:24 10 supervisor based on my performance in
13:46:27 11 that area, because I was new to the
13:46:29 12 area. So basically he only had a few
13:46:32 13 months to evaluate me.

13:46:38 14 So we discussed my role in
13:46:40 15 the area, how he saw the role and how I
13:46:46 16 can -- I told him about my desires to
13:46:49 17 grow within the area, learn my duties
13:46:52 18 and do them well, and to just continue
13:46:56 19 to grow as an engineer, as an
13:46:59 20 individual in the organization.

13:47:01 21 Q. If you'd turn to Page 4 of
13:47:05 22 this performance review, it provides a
13:47:08 23 summary of the performance and there's
13:47:11 24 an overall rating that is provided. Do
13:47:14 25 you see that?

1 HOWARD A. HENRY

13:47:14 2 A. Yes.

13:47:15 3 Q. And what is your overall
13:47:17 4 rating for this year?

13:47:19 5 A. It said solid performer,
13:47:21 6 which is a three.

13:47:22 7 Q. And there are four different
13:47:24 8 rating categories -- I'm sorry, five
13:47:26 9 different rating categories on this
13:47:28 10 particular form; is that correct?

13:47:29 11 A. Correct.

13:47:30 12 Q. A solid performer falling
13:47:35 13 right in the middle, correct?

13:47:36 14 A. Correct.

13:47:37 15 Q. If you turn the page to Page
13:47:39 16 5, you see under section 5 there's a
13:47:43 17 section for employee comments?

13:47:47 18 A. Right.

13:47:47 19 Q. You didn't provide any
13:47:49 20 comment, did you?

13:47:50 21 A. No.

13:47:51 22 Q. And you signed this
13:47:54 23 agreement. Is that your signature
13:47:55 24 there?

13:47:55 25 A. Yes.

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13:47:56 2

Q. And then under yours is

13:47:59 3

Walter Wardrop's signature?

13:48:00 4

A. Yes.

13:48:00 5

Q. And then do you recognize

13:48:02 6

the signature under Mr. Wardrop's

13:48:04 7

signature?

13:48:05 8

A. I believe that's Jack

13:48:06 9

Riley's.

13:48:07 10

Q. And who is Jack Riley?

13:48:08 11

A. He was the director in the

13:48:10 12

area at that time.

13:48:17 13

Q. Did you have any

13:48:18 14

disagreement with anything written in

13:48:19 15

this performance evaluation? I'll

13:49:15 16

rephrase the question for you. Do you

13:49:16 17

recall having any disagreement with

13:49:18 18

this performance review?

13:49:19 19

A. No.

13:49:19 20

Q. Okay. Do you recall

13:49:26 21

thinking whether it was a -- whether

13:49:27 22

you thought it was a good review?

13:49:32 23

A. No.

13:49:33 24

Q. You have no recollection?

13:49:34 25

A. I felt -- I felt that I was

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13:49:38 2 new to the area so there was not much I
13:49:42 3 could have, you know -- at that time, I
13:49:47 4 was rather green to the area, so. Just
13:49:54 5 getting -- I was getting to know just
13:49:55 6 some of the duties in the area, so. I
13:50:01 7 was -- I was -- at that time I was
13:50:04 8 accepting of it.

13:50:06 9 Q. Had you received ratings
13:50:12 10 of -- well strike that.

11 (Henry Exhibit 11 for
12 identification, Bates stamped 4020
13:50:15 13 through 4025.)

13:50:15 14 Q. I'm going to hand you
13:50:16 15 another document which has been marked
13:50:18 16 Exhibit 11. Do you recognize this
13:50:31 17 document?

13:50:31 18 A. Yes.

13:50:32 19 Q. And what is this?

13:50:33 20 A. My performance evaluation
13:50:35 21 for 2001.

13:50:36 22 Q. And who completed this
13:50:38 23 evaluation for you?

13:50:38 24 A. Walter Wardrop.

13:50:40 25 Q. Did you meet with Mr.

HOWARD A. HENRY

13:50:41 2 Wardrop about this evaluation?

13:50:43 3 A. Yes.

13:50:44 4 Q. And what did you discuss?

13:50:48 5 A. He was pleased with my
13:50:50 6 performance. He was happy of the
13:50:53 7 strides that I made. He liked the fact
13:50:55 8 that I got along with people, my
13:50:58 9 leadership qualities, the type of
13:51:01 10 individual I was, how I was a leader in
13:51:05 11 my department when it came to a lot of
13:51:06 12 issues, and how I've grown as a person,
13:51:11 13 as an engineer, my respect for people,
13:51:14 14 how I collaborate well, the quality of
13:51:18 15 work I produced, my integrity.

13:51:25 16 Q. Did Mr. Wardrop have any
13:51:30 17 criticism that you recall of your
13:51:32 18 performance, constructive or otherwise?

13:51:36 19 A. I can't recall.

13:51:39 20 Q. How was your relationship
13:51:41 21 with Mr. Wardrop at this time?

13:51:43 22 A. I felt it was good, very
13:51:46 23 good I felt at the time.

13:51:48 24 Q. Again I notice that on Page
13:51:59 25 5 employee comments there's -- you

1 HOWARD A. HENRY

13:53:02 2 Q. And he'd give you -- in
13:53:04 3 addition, he'd give you a copy?

13:53:06 4 A. Sometimes you'd get the copy
13:53:08 5 afterwards. Like I didn't get a copy
13:53:09 6 of this until I requested it later on.
13:53:12 7 So I didn't have a copy.

13:53:14 8 Q. Do you recall having -- do
13:53:23 9 you recall disagreeing with anything
13:53:24 10 written in this particular performance
13:53:25 11 review?

13:53:26 12 A. No, I don't recall I
13:53:27 13 disagreed with anything.

14 (Henry Exhibit 12 for
15 identification, Bates stamped 4015
13:53:35 16 through 4019.)

13:53:35 17 Q. I'm handing you a document
13:53:36 18 that's been marked Henry Exhibit 12.
13:53:52 19 Do you recognize this?

13:53:53 20 A. Yes.

13:53:56 21 Q. And what is it?

13:53:57 22 A. My performance evaluation
13:53:59 23 for 2002.

13:54:01 24 Q. And at this time Mr. Wardrop
13:54:03 25 was still your supervisor?

1 HOWARD A. HENRY

13:54:04 2 A. Yes.

13:54:05 3 Q. Do you recall your

13:54:12 4 meeting -- did you have a meeting with
13:54:13 5 Mr. Wardrop --

13:54:15 6 A. Yes.

13:54:15 7 Q. -- about this performance
13:54:17 8 review?

13:54:17 9 A. Yes.

13:54:17 10 Q. Do you remember anything
13:54:18 11 from that meeting?

13:54:20 12 A. I remember that I felt that
13:54:22 13 I should have been rated higher for
13:54:25 14 some of the things I was able to
13:54:26 15 accomplish that were critical in the
13:54:29 16 group. I remember when he gave me the
13:54:32 17 line item 2 for the special project
13:54:35 18 that I told him that I did do it, but I
13:54:37 19 didn't have a chance to give it to him
13:54:40 20 and he understood that.

13:54:44 21 But other than that, I told
13:54:49 22 him that, you know, I want to continue
13:54:51 23 to grow, and I asked him what would it
13:54:53 24 take for me to be a five because I was
13:54:55 25 a four twice, I always want to improve,

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14:00:04 2 doing inspections I would be down
14:00:06 3 there. That's a supervisory function.
14:00:08 4 I would supervise the operators and the
14:00:12 5 supervisors and tell them exactly what
14:00:13 6 they should do. That's outside of my
14:00:16 7 job function. So there's a lot of
14:00:17 8 things that are not captured here that
14:00:19 9 are outside of my job function that I
14:00:21 10 performed.

14:00:21 11 Q. Did you explain these items
14:00:23 12 to Mr. Wardrop at the time of the
14:00:25 13 performance review?

14:00:25 14 A. I did. I did.

14:00:27 15 Q. What was his response?

14:00:33 16 A. He shook his head, he
14:00:35 17 understood, he respected the fact. I
14:00:38 18 said to him, you know, as far as I'm
14:00:40 19 concerned, next year I'm going to do
14:00:42 20 everything I can to be rated five. He
14:00:45 21 said okay.

22 (Henry Exhibit 13 for
23 identification, Bates stamped D 00176
14:00:49 24 and 177.)

14:00:49 25 Q. I hand you a document that's

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HOWARD A. HENRY

14:00:50 2

been marked Exhibit 13. Can you tell

14:01:05 3

me what this document is?

14:01:07 4

MR. MORELLI: Do you have

14:01:08 5

another one?

14:01:10 6

MR. McQUADE: Oh, sorry,

14:01:11 7

yes.

14:01:13 8

MR. MORELLI: Thank you.

14:01:19 9

A. This is a midyear review.

14:01:22 10

Q. Have you seen this document

14:01:24 11

before?

14:01:24 12

A. Yes.

14:01:25 13

Q. Did you meet with Mr.

14:01:31 14

Wardrop regarding this document?

14:01:33 15

A. Yes.

14:01:33 16

Q. Was that in September 2003?

14:01:36 17

A. This was not in September

14:01:37 18

2003. Well, I mean -- this -- this was

14:01:43 19

not, from what I recall, this did not

14:01:46 20

occur on September 3rd, 2003. From

14:01:52 21

what I -- from what I recall. I don't

14:01:54 22

remember -- I don't remember it being

14:01:55 23

that time.

14:01:58 24

Q. Okay. Other than the timing

14:02:01 25

of this document, do you recall seeing

HOWARD A. HENRY

14:02:05 2 this document in --

14:02:08 3 A. I recall some of the things
14:02:09 4 on this document.

14:02:10 5 Q. Okay. And did you sit
14:02:12 6 down -- did you sit down with Mr.
14:02:14 7 Wardrop and discuss this document as
14:02:16 8 part of a midyear review?

14:02:17 9 A. Yes.

14:02:18 10 Q. Okay. So you're telling me
14:02:20 11 you're not sure --

14:02:22 12 A. Of the exact date. I don't
14:02:23 13 think it was conducted on September
14:02:25 14 3rd.

14:02:25 15 Q. Okay. When do you think it
14:02:27 16 was conducted?

14:02:28 17 A. I remember something around
14:02:30 18 April/May, around that time, something
14:02:34 19 closer to that range. I don't remember
14:02:38 20 anything like this happening in
14:02:39 21 September. We were too busy.

14:02:50 22 Q. Okay. So I'd like you to
14:02:51 23 take a close look at the document and
14:02:53 24 tell me -- well let me focus you --
14:03:01 25 under the heading "Areas to focus for

1

HOWARD A. HENRY

14:03:04 2 remainder of 2003"?

14:03:12 3 A. Right.

14:03:13 4 Q. It lists a number of

14:03:14 5 projects that are in process,

14:03:17 6 establishing goals that need to be

14:03:19 7 completed by year's end. Goals is

14:03:22 8 capitalized. Do you know what that is

14:03:24 9 referring to?

14:03:24 10 A. These are things that he --

14:03:28 11 that we discussed, that he would like

14:03:29 12 to see if possible completed by the end

14:03:33 13 of the year.

14:03:42 14 Q. Okay. The second bullet

14:03:44 15 point there talks about improved

14:03:45 16 attendance. Did you discuss attendance

14:03:48 17 with Mr. Wardrop?

14:03:50 18 A. Briefly.

14:03:53 19 Q. What did he say about

14:03:56 20 attendance?

14:03:56 21 A. I don't recall exact, his

14:04:00 22 exact words. I don't recall his exact

14:04:05 23 words.

14:04:06 24 Q. Does that appear to be

14:04:07 25 accurate? This indicates that as of

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2 (Henry Exhibit 16 for
3 identification, Bates stamped D 00273
14:18:59 4 through 294.)

14:18:59 5 Q. I'm going to hand you two
14:19:00 6 documents here, one marked 15 and one
14:19:03 7 marked 16. If you'd turn your
14:19:28 8 attention to the document marked Henry
14:19:30 9 Exhibit 15, please.

14:19:32 10 A. Yes.

14:19:33 11 Q. Do you recall receiving this
14:19:38 12 email from Mr. Wardrop?

14:19:40 13 A. I think I opened it when I
14:19:41 14 came back from my honeymoon, this
14:19:45 15 particular one dated the 10th of
14:19:49 16 October.

14:19:50 17 Q. Okay. In this email he
14:19:53 18 states "The following email was sent on
14:19:57 19 September 8th."

14:19:58 20 A. Right.

14:19:59 21 Q. "The self-appraisal must be
14:20:03 22 completed and turned into me by October
14:20:05 23 1st."

14:20:06 24 A. Right.

14:20:07 25 Q. Do you remember receiving

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HOWARD A. HENRY

14:20:08 2

that email on October 8th?

14:20:09 3

A. Right, right.

14:20:10 4

Q. And then on this date,

14:20:14 5

October 2nd, you're receiving a second

14:20:16 6

email from Mr. Wardrop?

14:20:17 7

A. Right.

14:20:18 8

Q. Saying he didn't receive

14:20:19 9

your self-appraisal and goals?

14:20:21 10

A. Right.

14:20:21 11

Q. If you'd turn to Exhibit 16.

14:20:34 12

A. Yes.

14:20:35 13

Q. This is the goals and

14:20:36 14

self-appraisal that Mr. Wardrop was

14:20:39 15

referring to?

14:20:39 16

A. Without reading the whole

14:21:03 17

entire document, it seems like it.

14:21:05 18

Q. Okay. And the date you

14:21:07 19

submitted these to Mr. Wardrop are

14:21:10 20

January 5th, 2004?

14:21:12 21

A. Right.

14:21:13 22

Q. This was after you had your

14:21:17 23

meeting with Mr. Wardrop regarding your

14:21:19 24

performance review?

14:21:20 25

A. Right.

HOWARD A. HENRY

1
14:21:21 2 Q. Can you tell me in your own
14:21:36 3 words what this Exhibit 16 is, the
14:21:40 4 goals and self-appraisal?

14:21:42 5 A. The whole thing is a
14:21:44 6 tracking system that's used to
14:21:47 7 determine whether or not you're
14:21:51 8 achieving goals set forth at the
14:21:53 9 beginning of the year. We use it to
14:21:56 10 determine whether or not we should
14:21:58 11 continue in a certain direction,
14:22:00 12 whether we should concentrate on one
14:22:04 13 particular item and leave another item
14:22:06 14 for a later date.

14:22:10 15 Q. Don't you think it would be
14:22:12 16 helpful to have this document for a
14:22:14 17 manager in preparing a performance
14:22:15 18 review?

14:22:21 19 MR. MORELLI: If you can
14:22:22 20 answer. Objection. Can you answer
14:22:23 21 that?

14:22:25 22 A. I felt that the relationship
14:22:29 23 Walter and -- Walter and I had and what
14:22:31 24 we were corresponding to throughout the
14:22:33 25 year was sufficient. In other words,

HOWARD A. HENRY

14:27:48 2 degrees. And we interact with each
14:27:53 3 other a lot, you know, and I see what
14:28:00 4 they do. Other engineers from that
14:28:03 5 area told me what they do. So we
14:28:05 6 interact a lot. So we know what the
14:28:09 7 job requires. So I know the capacity
14:28:15 8 one has to have to perform those
14:28:16 9 functions. And the requirement itself
14:28:21 10 tells one that this is a -- this is a
14:28:24 11 position for someone who's possibly
14:28:26 12 getting their foot in the door but not
14:28:28 13 somebody at that time who had seven,
14:28:30 14 eight, nine years of experience that I
14:28:31 15 had, and the track record I had.

14:28:33 16 Q. The position had the same,
14:28:35 17 carried the same salary grade level?

14:28:37 18 A. Yes, for me, yes.

14:28:42 19 Q. So you would not, presumably
14:28:44 20 not, if you had been put in this
14:28:46 21 position you would not have received
14:28:47 22 any change in salary or level, correct?

14:28:49 23 A. No.

14:28:50 24 Q. Did Mr. Wardrop tell you it
14:28:59 25 was a demotion?

HOWARD A. HENRY

14:31:41 2 that they're currently doing, and I
14:31:43 3 decided that I need to meet with him
14:31:46 4 regarding this decision. I didn't
14:31:47 5 agree with this decision. I didn't
14:31:49 6 agree with being appointed to this
14:31:53 7 area. I didn't agree how I was
14:31:55 8 evaluated. And I felt that I needed to
14:31:59 9 let him know that out of respect
14:32:02 10 because at this point I was saying to
14:32:04 11 myself perhaps we miscommunicated,
14:32:06 12 perhaps we didn't really talk to each
14:32:10 13 other the way we should have and
14:32:11 14 expressed everything we should have.
14:32:13 15 So I said let me just talk to him, and
14:32:16 16 I did. And that was on January 5th.

14:32:22 17 Q. Who requested that meeting?
14:32:23 18 Was that you?

14:32:24 19 A. It wasn't a request. It was
14:32:25 20 just that, you know, we interacted and
14:32:27 21 I said Walter, I need to speak to you,
14:32:29 22 and he said well, I have interviews
14:32:31 23 throughout the day. I said whenever
14:32:33 24 you have some time I really would like
14:32:35 25 to. So there was some time available.

1

HOWARD A. HENRY

14:32:37 2

I went to his office and we spoke.

14:32:40 3

Q. And what did you tell him?

14:32:43 4

A. I said you -- the reason

14:32:48 5

why -- I said I don't understand this

14:32:50 6

decision, I don't -- I don't really

14:32:54 7

respect the fact that I'm being

14:32:57 8

evaluated the way I was evaluated and I

14:33:00 9

need for you to give me some

14:33:02 10

clarification. He said that, you know,

14:33:04 11

he's not going to give me anything. I

14:33:06 12

said I need to be reconsidered, I need

14:33:09 13

to be reevaluated because I don't think

14:33:12 14

the procedure was fair, I don't believe

14:33:14 15

that I was evaluated fairly.

14:33:16 16

He said -- and I said I have

14:33:19 17

these documents here, you didn't -- you

14:33:21 18

said you didn't need them, you said you

14:33:23 19

didn't want them, but I have them here,

14:33:26 20

and I presented them with the

14:33:28 21

engineering status report, with another

14:33:32 22

document that tracks the goals, with --

14:33:38 23

I think with another document. I can't

14:33:41 24

remember the three that I gave him,

14:33:44 25

but...

1

HOWARD A. HENRY

14:33:44 2

Q. Is that Exhibit 16 or some portion of Exhibit 16?

14:33:46 3

14:33:47 4

A. Yes, right.

14:33:48 5

Q. Okay.

14:33:51 6

14:33:53 7

14:33:55 8

14:33:58 9

14:34:00 10

14:34:03 11

14:34:05 12

14:34:08 13

14:34:10 14

14:34:12 15

14:34:15 16

14:34:17 17

14:34:19 18

14:34:20 19

14:34:22 20

14:34:24 21

14:34:26 22

14:34:29 23

14:34:31 24

14:34:33 25

A. And I told him I followed the company values, I did achieve the goals that we discussed. If there was any goal that couldn't be achieved I explained to him what I did in the past. Nothing changed to me from what we had in the past. The relationship I thought we had was if I didn't achieve something I told him why, I told him that it probably is going to take a collaboration, a collaborative effort between technology or QA and other people, they have to be pulled off their projects in order for us to get this done, what would you like for me to do. So I let him know, he said he wasn't going to do anything.

He said at this point he's not going to reevaluate me. He's not going to take my documents. As a

1

HOWARD A. HENRY

14:36:31 2

Q. Do you remember when that

14:36:37 3

meeting occurred?

14:36:38 4

A. Sometime in January. Could

14:36:40 5

have been a couple of days after, maybe

14:36:41 6

the seventh.

14:36:43 7

Q. Did he show you the revised

14:36:45 8

performance appraisal at that time?

14:36:46 9

A. I don't recall if he showed

14:36:48 10

it to me. I can't recall. But he said

14:36:52 11

that, you know, he made some changes

14:36:58 12

and the changes still weren't

14:36:59 13

satisfactory, they still didn't capture

14:37:04 14

everything that I did. So I told him

14:37:06 15

that, you know, I have to continue to

14:37:08 16

move on.

14:37:10 17

He said that -- I can't

14:37:16 18

remember the exact things that he said

14:37:18 19

at this point. I don't want to

14:37:19 20

speculate.

14:37:43 21

Q. Okay. If you could turn

14:37:44 22

your attention to Exhibit 17.

14:37:46 23

A. Okay.

14:37:47 24

Q. Final page, Page 4.

14:38:04 25

MR. MORELLI: For the

1

HOWARD A. HENRY

14:38:05 2

record, the exhibit has an additional
page after Page 4, in what you gave me,
anyway.

14:38:07 3

14:38:15 4

14:38:17 5

MR. McQUADE: Right.

14:38:18 6

14:38:21 7

14:38:28 8

14:38:29 9

14:38:32 10

14:38:34 11

14:38:37 12

14:38:39 13

14:38:41 14

14:38:43 15

14:38:45 16

14:38:47 17

14:38:47 18

14:38:48 19

14:38:51 20

14:38:52 21

14:38:53 22

14:38:54 23

14:38:55 24

14:38:56 25

Q. On Page 4, under section 4,

"Employee comments," it says "This
performance review was conducted with
Mr. Henry on December 17th, 2003. Mr.
Henry disagreed with his ratings, chose
not to sign it and has submitted a
rebuttal." Are you with me?

A. Oh, I see it. I thought you
were looking at the bottom, I'm sorry.

Q. I'm looking at the top,
under section 4, employee comments.

A. Right.

Q. This says that you submitted
a rebuttal. Did you ever submit any
type of --

A. Not that I --

Q. -- written rebuttal?

A. Not that I recall.

Q. It says "He has not
submitted his 2003 goals and objectives

1

HOWARD A. HENRY

14:38:59 2

or his self-appraisal for inclusion in

14:39:02 3

this review." And it's signed by it

14:39:05 4

looks like Mr. Wardrop and Mr.

14:39:09 5

Schaschl?

14:39:09 6

A. Yes.

14:39:10 7

Q. And then on the bottom it

14:39:11 8

says, "The review was given to Howard

14:39:13 9

during a meeting in my office on

14:39:14 10

January 16th, 2004. Howard refused to

14:39:17 11

sign and did not take the document."

14:39:19 12

A. I don't recall these

14:39:24 13

employee comments.

14:39:25 14

Q. Okay.

14:39:25 15

A. I don't recall those.

14:39:27 16

Q. Do you recall seeing this

14:39:29 17

revised review?

14:39:42 18

A. Yes.

14:39:43 19

Q. Do you remember how the

14:39:44 20

review changed?

14:39:45 21

A. I don't remember exactly how

14:39:50 22

the review changed.

14:39:51 23

Q. Do you remember anyone

14:39:52 24

telling you how the review changed?

14:39:54 25

A. I remember Walter and Joanne

1

HOWARD A. HENRY

14:39:58 2

explaining to me some of the things

14:40:01 3

that they felt they added in addition

14:40:04 4

and some of the wording they felt was

14:40:06 5

changed. It was explained to me.

14:40:13 6

Q. So this was a meeting

14:40:15 7

between Joanne?

14:40:16 8

A. Ms. Joanne Rose and Mr.

14:40:19 9

Walter Wardrop.

14:40:21 10

Q. And who is Joanne --

14:40:22 11

A. And myself.

14:40:23 12

Q. And who is Joanne Rose?

14:40:25 13

A. She's a human resources

14:40:26 14

representative.

14:40:27 15

Q. Can you tell me whatever

14:40:29 16

else you recall about this meeting?

14:40:36 17

A. I explained to them that,

14:40:38 18

you know, this review didn't really

14:40:41 19

reflect the work that I did and that I

14:40:46 20

really need to -- I still haven't

14:40:48 21

gotten an answer as to why this is

14:40:54 22

occurring, and I just wanted -- I just

14:40:59 23

wanted honest answers and that if I

14:41:01 24

can't get them from Walter or I can't

14:41:04 25

get them from Andy that I need to go

1 HOWARD A. HENRY

12:37:45 2 other positions that you feel you were
12:37:47 3 denied based on your race or based on
12:37:51 4 complaints that you made or for any
12:37:54 5 other reason that was improper?

12:37:57 6 A. There's another position
12:38:10 7 that I talked to Mr. Bigelow -- well, I
12:38:16 8 emailed to Mr. Bigelow about and it was
12:38:19 9 the position of project engineer.

12:38:21 10 Q. Okay. If I can stop you
12:38:23 11 there. Is there any other position
12:38:25 12 that you can think of other than the
12:38:27 13 project engineer position?

12:38:32 14 A. I mean it's a second project
12:38:34 15 engineer position in 2004.

12:38:35 16 Q. Okay.

12:38:36 17 A. There was two. There was
12:38:37 18 one that Cara got and there was one
12:38:38 19 that was appointed to a gentleman by
12:38:40 20 the name of Jun Ordonez. So there was
12:38:46 21 another one that came up in 2004. A
12:38:48 22 gentleman by the name of Aladdin
12:38:51 23 Alkawham left the company. I had
12:38:53 24 helped Aladdin with that position. I
12:38:55 25 was previously a project engineer. I

1

HOWARD A. HENRY

12:38:57 2

definitely qualified for it. I

12:38:59 3

definitely successfully helped the

12:39:02 4

organization in that role previously,

12:39:04 5

and I wasn't afforded that opportunity.

12:39:07 6

Q. Was this the position in the

12:39:09 7

consumer health care group as the

12:39:11 8

project manager?

12:39:12 9

A. As the -- no. When they

12:39:14 10

restructured the consumer health area

12:39:16 11

there was a position of project

12:39:18 12

engineer that was awarded to Aladdin

12:39:21 13

Alkawham. He left the organization. I

12:39:24 14

explained to Mr. Bigelow in an email

12:39:26 15

that he had given me two options,

12:39:29 16

either to take a position available in

12:39:31 17

vaccines or go down to packaging. I

12:39:35 18

explained to him that vaccines was an

12:39:42 19

option for me at this time. Michael

12:39:43 20

McDermott was the head of vaccines, I

12:39:46 21

wasn't comfortable with that. Because

12:39:48 22

the project engineer position was

12:39:51 23

available. At this time I was in

12:39:53 24

limbo. I wasn't told where I would be,

12:39:54 25

who I would be reporting to. The

HOWARD A. HENRY

project engineer position was available. I performed it successfully in the past. I qualified for it. I trained and I spoke to Aladdin Alkawham about a lot of his duties. He got most if not all of the materials from me and I was not given the position. And I feel that's because I complained.

MR. McQUADE: Could you mark that, please.

(Henry Exhibit 9 for identification, Bates stamped 1407.)

Q. Mr. Henry, I've placed in front of you a document marked Exhibit 11 -- excuse me, Exhibit 9. Can you tell me what this document is?

A. This is an email addressed to Peter Bigelow complaining of discrimination.

Q. If you'd look at the second paragraph of this email, does this refer to the position you were just describing?

A. Yes.

1 HOWARD A. HENRY

12:41:27 2 Q. Is this how you expressed
12:41:29 3 interest in this position, through this
12:41:31 4 email?

12:41:31 5 A. Yes.

12:41:32 6 Q. Did you express any interest
12:41:34 7 in this position other than what's in
12:41:36 8 this email?

12:41:39 9 A. Yes.

12:41:39 10 Q. How so?

12:41:40 11 A. I spoke to individuals in
12:41:44 12 the area.

12:41:49 13 Q. Who did you speak to?

12:41:50 14 A. I can't recall everyone I
12:41:51 15 spoke to.

12:41:52 16 Q. Did you speak to anyone who
12:41:53 17 had authority to hire for this
12:41:55 18 position?

12:41:55 19 A. I can't recall.

12:42:00 20 Q. Anyone else you spoke to
12:42:01 21 that you can recall?

12:42:03 22 A. Not at this time.

12:42:08 23 Q. And is there any other way
12:42:13 24 you expressed interest in this position
12:42:19 25 that you can recall at this time?

1

HOWARD A. HENRY

12:42:19 2

A. No.

12:42:25 3

Q. Do you know who made the

12:42:27 4

decision with respect to this position?

12:42:34 5

A. No.

12:42:35 6

Q. And who received -- who was

12:42:39 7

hired into this position?

12:42:41 8

A. It was awarded to Jun

12:42:52 9

Ordonez.

12:42:52 10

Q. Do you know what Jun

12:42:54 11

Ordonez's race is?

12:42:55 12

A. Philippino.

12:42:57 13

Q. Do you know anything about

12:42:58 14

Mr. Ordonez's qualifications for this

12:43:05 15

position?

12:43:05 16

A. He worked as a supervisor in

12:43:09 17

packaging prior to that. And I believe

12:43:10 18

he has a degree in engineering, I

12:43:13 19

believe mechanical.

12:43:14 20

Q. Do you believe he was

12:43:15 21

qualified for this position?

12:43:16 22

A. I can't say whether he was

12:43:17 23

or whether he wasn't.

12:43:21 24

Q. Would this position have

12:43:23 25

been a promotion for you?

1

HOWARD A. HENRY

12:43:25 2

A. On paper, no. Career-wise,

12:43:31 3

yes.

12:43:31 4

Q. Can you explain that?

12:43:32 5

A. On paper, because they

12:43:34 6

wouldn't officially give you a title

12:43:35 7

change, but as far as title, you would

12:43:39 8

officially receive the title and this

12:43:41 9

gives you more exposure and more

12:43:44 10

opportunity if you decided to look

12:43:46 11

within the company or without the

12:43:47 12

confines of the company. So the title

12:43:50 13

itself affords you a lot more exposure

12:43:55 14

and a lot more opportunities.

12:43:58 15

Q. It was a lateral move,

12:44:01 16

wasn't it?

12:44:01 17

A. It could have been

12:44:02 18

considered that, sure.

12:44:03 19

Q. Okay. Are there any other

12:44:14 20

positions that you believe you were

12:44:15 21

denied for retaliatory purposes or

12:44:21 22

discriminatory purposes? You're

12:44:52 23

looking at the complaint; is that

12:44:54 24

correct?

12:44:54 25

A. Yes. Just to make sure I

HOWARD A. HENRY

15:05:41 2 and a half later.

15:05:42 3 Q. And what happened?

15:05:43 4 A. He said he wanted to conduct
15:05:46 5 an investigation.

15:05:52 6 Q. Were you involved in any
15:05:53 7 sort of investigation?

15:05:54 8 A. Yes.

15:05:55 9 Q. How so?

15:05:56 10 A. I was asked by a gentleman
15:05:59 11 by the name of Gene Sackett a series of
15:06:04 12 questions regarding my statement.

15:06:14 13 Q. This was a meeting between
15:06:15 14 you and Mr. Sackett?

15:06:19 15 A. Yes.

15:06:20 16 Q. Do you remember when this
15:06:21 17 meeting occurred?

15:06:21 18 A. It could have been April of
15:06:28 19 2004, April.

15:06:30 20 Q. Was there anyone else
15:06:32 21 present during this meeting?

15:06:33 22 A. Not at that meeting, no.

15:06:35 23 Q. And can you tell me what you
15:06:37 24 remember telling Mr. Sackett at this
15:06:40 25 meeting?

1

HOWARD A. HENRY

15:06:41 2

A. I told him that I felt

15:06:55 3

that -- (telephone interruption) excuse

15:06:58 4

me, I beg your pardon. My apologies.

15:07:01 5

Q. That's okay.

15:07:01 6

A. Basically we discussed the

15:07:08 7

organizational cascade and I presented

15:07:12 8

him with the documents, my goals and

15:07:15 9

objectives for 2003. We discussed my

15:07:20 10

feelings of why I felt that I was

15:07:28 11

allege -- I was talking about racial

15:07:31 12

discrimination. And I don't recall

15:07:32 13

everything that was said at that kind

15:07:36 14

-- that kind of thing, but that was the

15:07:37 15

general gist of the conversation.

15:07:43 16

Q. What did he tell you, if

15:07:45 17

anything? Do you remember him telling

15:07:46 18

you anything, or did he just ask

15:07:48 19

questions?

15:07:48 20

A. He asked questions. He did

15:07:49 21

tell me that there are packages

15:07:56 22

available, you know. He mentioned

15:07:59 23

something about a package, about

15:08:04 24

something about three months or some

15:08:06 25

kind of salary based on for every

1

HOWARD A. HENRY

15:08:09 2 year's service you get two weeks so in
15:08:13 3 my case it could be about six months.

15:08:17 4 He mentioned -- he read some
15:08:19 5 of the reviews, these are good reviews,
15:08:22 6 he said these are -- these are very,
15:08:25 7 very good, the past reviews. I didn't
15:08:28 8 have -- I don't think I had a 2003 at
15:08:31 9 the time. I think he made copies of
15:08:33 10 everything and said he would get back
15:08:35 11 to me.

15:08:36 12 Q. And what happened next?

15:08:44 13 A. That was it. And I didn't
15:08:46 14 hear from him from the date he said he
15:08:47 15 would get back to me. So I emailed him
15:08:50 16 and said you said you were going to get
15:08:52 17 back to me at a certain date, you never
15:08:54 18 did. And he emailed me back stating
15:08:57 19 sorry for any confusion that he may
15:08:59 20 have caused, but basically he's still
15:09:03 21 summing up -- summarizing his findings
15:09:06 22 and he'll give them over to Mr.
15:09:09 23 Bigelow. And I think at the time it
15:09:10 24 was Donna Grantland and they would
15:09:12 25 discuss with me my options.

HOWARD A. HENRY

15:09:20 2 Q. When were you advised that
15:09:28 3 you would not have to move into the
15:09:29 4 packaging supervisor position?

15:09:33 5 A. It had to be April/May of
15:09:37 6 2004 I was -- I was -- I was sent an
15:09:42 7 email -- I sent the email -- after I
15:09:44 8 spent -- after I met with Mr. Bigelow
15:09:48 9 and Ms. Grantland I was given an
15:09:52 10 email -- I responded to an email what
15:09:54 11 was discussed and what was discussed is
15:09:58 12 that there was a vaccines position they
15:10:03 13 was going to give me and that there was
15:10:05 14 the packaging supervisor position that
15:10:07 15 they were going to give me. And at
15:10:09 16 that time I emailed him and said these
15:10:14 17 weren't viable options that I mentioned
15:10:16 18 earlier and there was a project
15:10:18 19 engineer position that was available
15:10:19 20 that was a viable option.

15:10:21 21 THE VIDEO OPERATOR: Mr.
15:10:22 22 McQuade, I need to change the tape.

15:10:24 23 MR. MCQUADE: Okay. We'll
15:10:26 24 go off the record.

15:10:27 25 THE VIDEO OPERATOR: Going

1

HOWARD A. HENRY

15:10:27 2

off the record at 3:10. This is the

15:10:29 3

end of tape number 2.

15:10:55 4

(A recess was taken.)

15:21:27 5

THE VIDEO OPERATOR: Beginning

15:21:45 6

tape number 3 and returning to the record

15:21:46 7

at 3:21 from 3:10.

8

(Henry Exhibit 20 for

15:21:53 9

identification, Bates stamped 3996.)

15:21:53 10

Q. Mr. Henry, before the break

15:21:54 11

you were describing an email that you

15:21:55 12

had written to Mr. Bigelow. I put in

15:22:05 13

front of you a document marked Exhibit

15:22:06 14

20. There's an email here and then

15:22:08 15

there's a response to that email. If

15:22:10 16

you look to the email on the lower half

15:22:12 17

of the page, does this appear to be the

15:22:19 18

email that you were referring to before

15:22:20 19

the break?

20

A. Yes.

15:22:30 21

Q. It refers to the senior

15:22:31 22

validation specialist role. What

15:22:33 23

position was that? That was the

15:22:34 24

position within the vaccine

15:22:37 25

organization?

1

HOWARD A. HENRY

15:22:38 2

A. Yes.

15:22:39 3

Q. Okay. If you'd look at the

15:22:43 4

top of the page, is this the email you

15:22:46 5

received and were informed that you

15:22:52 6

would in fact remain in the position

15:22:57 7

that you were in and would not change

15:23:00 8

to the packaging supervisor position?

15:23:03 9

A. Yes.

15:23:04 10

Q. In the packaging supervisor

15:23:14 11

position you would be managing people,

15:23:17 12

wouldn't you?

15:23:18 13

A. Operators.

15:23:19 14

Q. But you'd be supervising

15:23:21 15

people?

15:23:22 16

A. I'd -- yes.

15:23:23 17

Q. So it would be an

15:23:24 18

opportunity to get some experience

15:23:28 19

managing people?

15:23:28 20

A. I did that as an engineer

15:23:30 21

though.

15:23:31 22

Q. But this would give you

15:23:33 23

additional experience doing that; is

15:23:35 24

that correct?

15:23:35 25

A. Perhaps.

1 HOWARD A. HENRY

14:28:59 2 A. Not in those words.

14:29:08 3 Q. Did anyone tell you it was a
14:29:10 4 demotion?

14:29:10 5 A. Yes.

14:29:10 6 Q. Who told you it was a
14:29:12 7 demotion?

14:29:12 8 A. Not -- not to use the exact
14:29:15 9 words, but individuals who work at the
14:29:18 10 site know what it means to go from an
14:29:22 11 engineer to a packaging supervisor.
14:29:23 12 They know what it implies, they know
14:29:25 13 what it means. Everyone knows that
14:29:29 14 that means that this person really
14:29:31 15 doesn't know what he's doing, he's
14:29:33 16 incompetent.

14:29:35 17 Q. You were never in fact
14:29:56 18 placed in that position? You never
14:29:57 19 assumed those job responsibilities or
14:29:59 20 that position?

14:29:59 21 A. No.

14:29:59 22 Q. Okay. Going back to
14:30:29 23 Exhibit -- I don't have the exhibit
14:30:30 24 number, but it's the performance
14:30:31 25 evaluation, Bates number EEOC 0051 in

1 HOWARD A. HENRY

15:26:54 2 A. About this, no.

3 (Henry Exhibit 22 for
4 identification, Bates stamped 1494 and
15:27:05 5 1495.)

15:27:05 6 Q. Handing you a document
15:27:06 7 that's marked Henry Exhibit 22. Can
15:27:37 8 you tell me what this document is?

15:27:38 9 A. It's a midyear review.

15:27:43 10 Q. And who put this midyear
15:27:46 11 review together?

15:27:47 12 A. Andrew Espejo.

15:27:50 13 Q. Did you meet with him?

15:27:52 14 A. Yes.

15:27:52 15 Q. At about July 9th, 2004
15:27:56 16 about this review?

15:27:57 17 A. I think so, yes.

15:27:58 18 Q. What do you recall from that
15:28:02 19 meeting?

15:28:02 20 A. I recall that he was trying
15:28:05 21 to allege and trying to develop an
15:28:10 22 ideology that I was not doing things on
15:28:14 23 time. So he developed what I -- and I
15:28:18 24 explained to him, I said, you know, it
15:28:21 25 seems to me that all of a sudden

HOWARD A. HENRY

there's a pattern here that people are accusing me of being late. All of a sudden now. I said, you know, I've been working for this company almost nine, ten years at this juncture and I've never been accused of any of these things, now all of a sudden I want to move up and everybody seems to accuse me, there seems to be a pattern going on. He said no, no, no, no, these are just things that I feel that -- I said I'm not signing this, it does not reflect the truth. So I didn't sign it.

Q. If you look at the first solid bullet point at the top there are two bullet points under that. One of them says "Missed target date of June 25th, 2004, to schedule meeting with maintenance." Is that true?

A. He didn't make himself clear as to exactly what he wanted.

Q. Did you miss the target date of June 25, 2004?

1

HOWARD A. HENRY

15:29:18 2

A. He didn't make himself clear

15:29:20 3

about the target date on any of this,

15:29:22 4

that's why I didn't sign it. He didn't

15:29:24 5

make it clear.

15:29:24 6

Q. But did you miss a date of

15:29:26 7

June 25th, 2004, to schedule the

15:29:28 8

meeting?

15:29:29 9

A. He didn't make it clear this

15:29:30 10

date of June 25th, 2004. That's why I

15:29:33 11

didn't sign it.

15:29:33 12

Q. So it's your position --

15:29:35 13

A. I can't say I missed the

15:29:37 14

date because he didn't make it clear of

15:29:39 15

any date like that.

15:29:40 16

Q. You're telling me you

15:29:44 17

weren't aware of the fact that June

15:29:44 18

25th, 2004 was --

15:29:45 19

A. I'm telling you that when we

15:29:46 20

had discussions about these maintenance

15:29:49 21

plans, he came from a maintenance area,

15:29:51 22

he wanted me to focus on maintenance

15:29:53 23

things. I said I don't understand

15:29:54 24

because as engineers we're not -- we're

15:29:56 25

not responsible for the actual

HOWARD A. HENRY

1
15:29:57 2 maintenance. We contact -- we contact
15:29:59 3 maintenance for them to take care of
15:30:01 4 the equipment. We tell them what's
15:30:03 5 wrong and they take care of it, but
15:30:05 6 we're not responsible for no
15:30:06 7 maintenance plan and no all these
15:30:09 8 plans, that maintenance takes care of
15:30:11 9 all the planning. I told him that.

15:30:17 10 And you know, when I got --
15:30:18 11 when I got to this midyear review I
15:30:19 12 explained to him, I said you didn't
15:30:21 13 really make it clear, he said you
15:30:23 14 didn't really ask. I said well I
15:30:24 15 didn't understand and I asked you, hey,
15:30:27 16 you didn't make this clear to me. So
15:30:28 17 that's why I said I can't sign this
15:30:30 18 because this isn't going to reflect
15:30:33 19 exactly how you disseminated the
15:30:35 20 information.

15:30:38 21 Q. So you had no knowledge,
15:30:40 22 you're telling me you had no knowledge
15:30:41 23 that your supervisor, Mr. Espejo, had
15:30:44 24 asked you to meet certain, this June
15:30:46 25 25th, 2004 target date with respect to

1

HOWARD A. HENRY

15:32:47 2

A. I remember we discussed

15:32:48 3

about Microsoft Project and I said I

15:32:50 4

would take it, I took the course.

15:32:52 5

Q. Do you remember anything

15:32:53 6

else that you discussed with Mr. Espejo

15:32:55 7

about this?

15:32:56 8

A. I told him that I couldn't

15:32:58 9

sign the document because I didn't

15:32:59 10

agree with it.

15:33:00 11

Q. What was his response?

15:33:02 12

A. Okay.

13

(Henry Exhibit 23 for

14

identification, Bates stamped D 00170

15:33:33 15

through 173.)

15:33:33 16

Q. I pass you a document that's

15:33:34 17

been marked Henry Exhibit 23. This

15:34:15 18

document is a performance appraisal, it

15:34:18 19

looks like it's covering the time

15:34:19 20

January 1, 2004 through December 31st,

15:34:22 21

2004; is that correct?

15:34:25 22

A. Yes.

15:34:26 23

Q. And this was prepared by

15:34:27 24

your supervisor, Andrew Espejo; is that

15:34:31 25

correct?

1

HOWARD A. HENRY

15:34:31 2

A. Yes.

15:34:32 3

Q. Did you meet with Mr.

15:34:34 4

Espejo --

15:34:35 5

A. Yes.

15:34:35 6

Q. -- in connection with this

15:34:36 7

performance review?

15:34:38 8

Were you provided a copy of

15:34:39 9

the performance review during that

15:34:40 10

meeting?

15:34:41 11

A. I don't recall.

15:34:42 12

Q. Did you discuss -- did Mr.

15:34:46 13

Espejo read this performance review to

15:34:48 14

you?

15:34:48 15

A. I think so.

15:34:52 16

Q. Did you have any discussion

15:34:55 17

with him about any of the information

15:34:58 18

provided in this performance review?

15:35:00 19

A. Can you repeat that for me,

15:35:06 20

I'm sorry. I was just focusing on

15:35:09 21

something.

15:35:09 22

Q. Did you have any discussions

15:35:10 23

with him about any of the information

15:35:12 24

provided in this performance review?

15:35:14 25

A. Yes.

HOWARD A. HENRY

15:35:15 2 Q. What did you discuss?

15:35:17 3 A. I said that he didn't
15:35:20 4 capture a key element, something that
15:35:23 5 occurred during that year.

15:35:25 6 Q. And what was that?

15:35:26 7 A. The continuous coater single
15:35:31 8 pass project leadership that I provided
15:35:33 9 that year.

15:35:37 10 Q. And what was that?

15:35:38 11 A. They couldn't -- they had a
15:35:42 12 tremendous amount of trouble getting
15:35:46 13 Centrum to -- how shall I say? -- to be
15:35:54 14 coated in a single pass application.
15:35:56 15 They had tremendous amount of trouble.
15:35:59 16 They couldn't get it done for
15:36:00 17 approximately nine or ten months. Our
15:36:04 18 technical service department tried and
15:36:06 19 they had vendors try and no one can do
15:36:09 20 it. And corporate was looking
15:36:12 21 specifically at us because part of the
15:36:16 22 reason why they approved this
15:36:18 23 instrument is to have it perform this
15:36:20 24 particular function, and I was
15:36:23 25 instrumental on making that happen.

HOWARD A. HENRY

15:36:28 2 Q. And you felt it should have
15:36:30 3 been reflected or stated in this
15:36:31 4 review?

15:36:31 5 A. Yes.

15:36:32 6 Q. And it wasn't?

15:36:33 7 A. Not to the level that it
15:36:36 8 needed to be, no.

15:36:38 9 Q. Do you recall Mr. Espejo
15:36:43 10 discussing anything about you needing
15:36:46 11 to improve setting objective dates for
15:36:52 12 commitments and meeting those
15:36:54 13 commitments on a consistent basis?

15:36:57 14 A. Yes.

15:37:00 15 Q. What did he tell you about
15:37:01 16 that?

15:37:01 17 A. He just said that, you know,
15:37:05 18 as far as he's concerned that, you
15:37:08 19 know, I need to firm up certain dates,
15:37:13 20 and I told him, I said when you
15:37:16 21 collaborate with people there are a lot
15:37:18 22 of issues that occur for one not to --
15:37:21 23 to have -- to afford an extension, and
15:37:25 24 he said, you're right, I have
15:37:27 25 extensions myself and, you know, but I

1

HOWARD A. HENRY

15:37:29 2

would like for you -- do your best to
firm up certain dates. I said I'll do
my best.

15:37:31 3

15:37:34 4

15:37:35 5

Q. Did you have any

15:37:36 6

disagreement with this review?

15:37:37 7

A. Yes.

15:37:37 8

Q. What were your

15:37:39 9

disagreements?

15:37:40 10

A. He didn't capture a lot of
the things that I did during the course
of that year.

15:37:41 11

15:37:43 12

15:37:44 13

Q. Anything else you disagreed
about?

15:37:46 14

15:37:48 15

A. I mean I told him that I
couldn't sign it because, you know, I
just didn't agree. You know, I felt
that the work that I did was critical
to the organization and that it
warranted a five because if it didn't
get done we couldn't coat Centrum at
the rate, at the speed that we were
coating Centrum and probably we would
be held, you know, accountable for that
as a site. So I was key to making sure

15:37:50 16

15:37:53 17

15:37:57 18

15:37:59 19

15:38:01 20

15:38:03 21

15:38:09 22

15:38:11 23

15:38:13 24

15:38:15 25

1

HOWARD A. HENRY

15:38:19 2

that that occurred, that it happened.

15:38:21 3

Q. Is there anything else you

15:38:30 4

recall about your conversation with Mr.

15:38:31 5

Espejo in connection with this review?

15:38:34 6

A. Not at this time.

15:38:35 7

Q. Okay.

8

(Henry Exhibit 24 for

9

identification, Bates stamped 3765

15:39:37 10

through 3768.)

15:39:37 11

Q. Mr. Henry, I've handed you a

15:39:39 12

document that's marked Henry Exhibit

15:39:42 13

24. Have you seen this document

15:39:43 14

before?

15:39:43 15

A. Yes.

15:39:46 16

Q. What is it?

15:39:47 17

A. It's some feedback that I

15:39:50 18

got, the performance, 2005 performance

15:39:55 19

feedback.

15:39:58 20

Q. And who provided you this

15:40:02 21

feedback?

15:40:03 22

A. Max Katz.

15:40:04 23

Q. Who was Max Katz, can you

15:40:05 24

tell me again?

15:40:06 25

A. He was the person I reported

1

HOWARD A. HENRY

15:40:07 2

to at the time.

15:40:08 3

15:40:10 4

15:40:12 5

15:40:14 6

15:40:19 7

15:40:20 8

15:40:20 9

15:40:31 10

15:40:35 11

15:40:38 12

15:40:40 13

15:40:42 14

15:40:47 15

15:40:50 16

15:40:51 17

15:41:02 18

15:41:03 19

15:41:04 20

15:41:06 21

15:41:08 22

15:41:08 23

15:41:11 24

15:41:11 25

Q. So at this point your reporting line had changed, you were no longer reporting to Mr. Espejo, but instead at this time, May 31st, 2005, you're reporting to Mr. Katz?

A. Right.

Q. How long had you been reporting to Mr. Katz as of this date?

A. A full five -- according to this, a full five months.

Q. Okay. So that's the January 3, 2005 through June 14th, 2005 review period?

A. Rights.

Q. Did you meet with Mr. Katz in connection with this review?

A. Yes.

Q. Did he give you a copy of the review at the meeting?

A. I don't recall.

Q. Did he read the review to you?

A. I believe so.

HOWARD A. HENRY

15:41:14 2 Q. Did he give you a copy at
15:41:15 3 the end of the meeting?

15:41:16 4 A. I don't recall. He may
15:41:21 5 have. I don't remember.

15:41:22 6 Q. Well I can represent to you
15:41:26 7 that your attorney produced this
15:41:29 8 document to us.

15:41:30 9 A. Right.

15:41:31 10 Q. If that --

15:41:32 11 A. He may not have given it to
15:41:34 12 me at the meeting, he may have given it
15:41:37 13 to me later on. I don't remember the
15:41:39 14 exact way I got it.

15:41:41 15 Q. Okay. This review form
15:41:45 16 appears a little different than the
15:41:47 17 other ones we have reviewed today.

15:41:49 18 A. Yes.

15:41:50 19 Q. Do you have any idea -- do
15:41:56 20 you know why this performance feedback
15:41:58 21 document is slightly different than the
15:41:59 22 others?

15:41:59 23 A. I guess they just changed
15:42:01 24 the structure of it.

15:42:02 25 Q. Okay. What was your general

HOWARD A. HENRY

15:42:11 2 impression of this feedback contained
15:42:12 3 in this performance feedback document?

15:42:15 4 A. It just tried -- it tried to
15:42:19 5 paint me as a person who didn't do
15:42:20 6 things in a timely fashion, didn't do
15:42:22 7 things on time.

15:42:25 8 Q. And you believed that was
15:42:28 9 not accurate?

15:42:29 10 A. Not a hundred percent.

15:42:31 11 Q. Not a hundred percent. So
15:42:32 12 you believe it's somewhat accurate?

15:42:34 13 A. I mean I wouldn't say -- I
15:42:37 14 don't think it was accurate. That's
15:42:39 15 why I didn't sign it.

15:42:40 16 Q. Well let's go through item
15:42:42 17 by item.

15:42:42 18 A. Sure.

15:42:43 19 Q. The first item, "Provide the
15:42:49 20 necessary support to the conversion
15:42:50 21 cost reduction project to ensure an 8
15:42:54 22 percent reduction." The "Behind pace
15:42:59 23 needs improvement" box is checked
15:43:01 24 there. And there's a comment "Provide
15:43:03 25 a project timeline for improvement

HOWARD A. HENRY

15:43:08 2 projects to manager by July 29th,
15:43:10 3 2005." Did you do that, did you submit
15:43:15 4 the project timeline for improvement
15:43:17 5 projects by July 29th, 2005?

15:43:19 6 A. Yes.

15:43:19 7 Q. Okay. Manufacture variances
15:43:29 8 in the left-hand column, the review
15:43:34 9 indicates that you had unacceptable
15:43:36 10 results and that corrective action is
15:43:40 11 required. Do you remember discussing
15:43:45 12 this with Mr. Katz?

15:43:45 13 A. No.

15:43:46 14 Q. A few lines down under the
15:43:56 15 box "Quality mindset," to the far right
15:44:00 16 there's the comment "PMO turnaround as
15:44:04 17 discussed earlier on March 30th, 2005.
15:44:07 18 PMOs from November and December were
15:44:10 19 not signed off on until March." Is
15:44:15 20 that accurate, that the PMOs from
15:44:18 21 November and December were not signed
15:44:20 22 off on until March?

15:44:21 23 A. Right.

15:44:22 24 Q. And would you agree with the
15:44:23 25 statement that this put the department

HOWARD A. HENRY

15:44:25 2 at serious compliance risk with
15:44:28 3 conformance standard 12-4-3-1?

15:44:33 4 A. I didn't understand that
15:44:35 5 statement a hundred percent at the
15:44:37 6 time.

15:44:37 7 Q. What did you think it meant
15:44:41 8 at the time, or now?

15:44:42 9 A. Well he explained to me that
15:44:45 10 PMOs not being signed off put the
15:44:48 11 department at compliance risk and I
15:44:49 12 said well part of the reason why
15:44:51 13 they're not signed off is because I'm
15:44:54 14 given them late or they're not given to
15:44:56 15 me in my box at a certain time, and I
15:44:59 16 find errors on the documents that need
15:45:01 17 to be reviewed with the individual who
15:45:03 18 gave them to me, and sometimes these
15:45:05 19 people are not available. He said
15:45:07 20 okay, what we're going to do, we're
15:45:09 21 going to create a spreadsheet so that
15:45:12 22 we can track when you get them, who
15:45:14 23 gives them to you and when they're
15:45:16 24 signed. I said okay.

15:45:18 25 Because I told him in the

HOWARD A. HENRY

past this is something that occurs, has occurred in the past and that usually, you know, to help maintenance I wouldn't say anything, but I would review them as quickly as I could so that we could, you know, have the documents back to them.

So in essence, I created the spreadsheet and we were able to track it better.

Q. A couple of boxes down, "Weekly zone checklists were not submitted in a timely fashion. No follow-up on missing zone checklists, resulting in ERF." What does ERF stand for?

A. Error -- error reduction form or error recording form, I think.

Q. Is that accurate, that the weekly zone checklists were not being submitted in a timely fashion?

A. Right.

Q. That is accurate?

A. Yes.

HOWARD A. HENRY

15:46:09 2 Q. So you would agree that
15:46:14 3 corrective action was required with
15:46:16 4 respect to the weekly zone checklists,
15:46:18 5 would you not?

15:46:18 6 A. Well we discussed that the
15:46:20 7 supervisors needed to fill out the
15:46:22 8 documents better and that the
15:46:27 9 department as a whole needed to have a
15:46:30 10 better way of handling these zone
15:46:33 11 checklists because other trains had the
15:46:37 12 same problem too. So it was a
15:46:41 13 departmental problem.

15:46:56 14 Q. On the second page of this
15:46:57 15 document under Wyeth, the heading
15:47:01 16 "Wyeth values, quality," if you look to
15:47:03 17 the far right it says "PMO turnaround
15:47:06 18 as discussed earlier. PMOs from
15:47:08 19 November and December were not signed
15:47:10 20 off on until March."

15:47:14 21 A. I don't know where you are.
15:47:16 22 What page, sorry? Is it the second
15:47:18 23 page?

15:47:19 24 Q. Yes, the second page.

15:47:23 25 A. The quality box?

1

HOWARD A. HENRY

15:47:25 2

Q. Yes.

15:47:25 3

A. Okay.

15:47:26 4

Q. To the far right?

15:47:27 5

A. Yes.

15:47:27 6

Q. There's a discussion there

15:47:29 7

again about PMOs and the weekly zone

15:47:32 8

checklists again.

15:47:36 9

A. Yes, same response as I gave

15:47:37 10

earlier. We discussed it and I said I

15:47:39 11

would start tracking it so you can see

15:47:42 12

where the source of the problem is

15:47:44 13

coming from. Because I explained to

15:47:45 14

him my position.

15:47:47 15

Q. If you look at the next box

15:47:49 16

down under "Respect for people," "Your

15:47:53 17

reaction and responses to receiving

15:47:55 18

constructive criticism from your

15:47:57 19

manager have not demonstrated Wyeth's

15:48:00 20

quality of respect for people." Did

15:48:08 21

you have a discussion about that?

15:48:09 22

A. No. I mean not that I can

15:48:11 23

recall.

15:48:22 24

Q. Did Mr. Katz discuss with

15:48:26 25

you your reactions to his constructive

1

HOWARD A. HENRY

15:48:28 2

criticism of you?

15:48:30 3

A. Yes. I mean he just

15:48:36 4

basically said that -- I'm trying to

15:48:41 5

recall.

15:48:43 6

Q. Were you finding it

15:48:44 7

difficult reporting to Mr. Katz?

15:48:45 8

A. At times.

15:48:47 9

Q. Did that have anything to do

15:48:48 10

with the fact that Mr. Katz was promoted

15:48:51 11

to that position --

15:48:55 12

A. I think --

15:48:56 13

Q. The position you had applied

15:48:57 14

for?

15:48:57 15

A. I really think that he was

15:48:58 16

real green in the position, and he was,

15:49:05 17

he explained to me he was new at it and

15:49:09 18

he needed to do some maturing himself

15:49:11 19

within the position. So he said he

15:49:13 20

doesn't know whether it's him or

15:49:14 21

whether it's me, but I said I think

15:49:18 22

that, you know, we just need to just

15:49:20 23

treat each other cordially.

15:49:24 24

Q. Did you do that, did you

15:49:26 25

have a cordial relationship with Mr.

HOWARD A. HENRY

15:49:27 2 Katz?

15:49:27 3 A. I tried to. I tried to.

15:49:30 4 Q. Do you think he tried as
15:49:32 5 well?

15:49:32 6 A. As far as I can see. As far
15:49:44 7 as I can see. I don't think anything
15:49:46 8 -- I don't think that, you know, I can
15:49:48 9 say anything otherwise at this point
15:49:55 10 ostensibly.

15:50:10 11 Q. And you refused to sign this
15:50:12 12 review; is that right?

15:50:12 13 A. Right.

15:50:14 14 Q. Did you state your reason
15:50:15 15 why you didn't want to sign the review?

15:50:18 16 A. I don't know if I did at
15:50:24 17 that time. But I just felt like they
15:50:26 18 were trying to paint me in a way that
15:50:28 19 was not accurate.

15:50:33 20 Q. Who's they? You say they.

15:50:36 21 A. Upper management.

15:50:37 22 Q. Well it was Mr. Katz that --

15:50:41 23 A. But he got a lot -- he got
15:50:42 24 feedback from Mr. Espejo too.

15:50:47 25 Q. So when you say they, you're

HOWARD A. HENRY

15:53:43 2 If we could start with
15:53:44 3 Exhibit 25.

15:53:49 4 A. Okay.

15:53:50 5 Q. Was this document presented
15:54:00 6 to you at a meeting on June 24th, 2005?

15:54:03 7 A. Yes.

15:54:04 8 Q. And who was at that meeting?

15:54:06 9 A. Stacey Marasco, she's a
15:54:11 10 human resources person, and Max Katz.

15:54:16 11 Q. Can you tell me what
15:54:17 12 happened at that meeting?

15:54:20 13 A. Succinctly stated, I was
15:54:23 14 being placed in the PIP. Didn't
15:54:26 15 understand why, explained my concern
15:54:30 16 and explained my disagreement with it.
15:54:34 17 They read to me the statement of
15:54:35 18 concerns and I said that I would have
15:54:42 19 to read it and respond, but I
15:54:47 20 definitely didn't agree with how it was
15:54:49 21 being conducted.

15:54:49 22 Q. Was the document read to you
15:54:51 23 at this meeting?

15:54:51 24 A. Yes.

15:54:52 25 Q. And then you were provided a

HOWARD A. HENRY

15:54:54 2 copy?

15:54:55 3 A. Yes.

15:54:55 4 Q. Were you asked to sign it at
15:54:57 5 the meeting?

15:54:57 6 A. I don't recall whether I was
15:55:01 7 asked to sign it at the meeting. I
15:55:06 8 don't think I was asked.

15:55:06 9 Q. Okay. If you look at Page 3
15:55:08 10 under "Employee comments," is that,
15:55:17 11 under employee's signature, is that
15:55:19 12 your signature?

15:55:24 13 A. Which document are you
15:55:25 14 looking at, 25 you said?

15:55:27 15 Q. Exhibit 25, the first page
15:55:28 16 of it is Bates stamped 3720.

15:55:32 17 A. Yes.

15:55:35 18 Q. And looking at the bottom of
15:55:37 19 Page 3, which is Bates stamped 3722
15:55:39 20 there's a line for employee's
15:55:41 21 signature?

15:55:42 22 A. Yes.

15:55:42 23 Q. Is that your signature?

15:55:43 24 A. Yes.

15:55:44 25 Q. And it's dated June 27th,

HOWARD A. HENRY

2005?

A. Yes. So I think I may have signed it soon thereafter, I think.

Q. Okay. Do you remember anything else that occurred during the meeting? This document was read to you, you said you disagreed, anything else?

A. I was told that with a PIP, I was told by Ms. Stacey Marasco that I couldn't bid on a job for a year.

Q. She told you that at this meeting?

A. Yes.

Q. Anything else you remember?

A. That if my performance doesn't improve I can be placed on probation which can lead -- up to and including termination.

Q. Anything else you can recall?

A. Not at this time.

Q. Okay. Looking at the statement of concerns.

HOWARD A. HENRY

15:57:04 2 A. On 25?

15:57:05 3 Q. Yes, Exhibit 25. The first
15:57:09 4 sentence says, "My concern is that
15:57:11 5 you've repeatedly failed to meet
15:57:13 6 deadlines and complete tasks in a
15:57:15 7 timely manner"; isn't that correct?
15:57:19 8 And then it lists seven items. The
15:57:21 9 first item is the PMO reviews. These
15:57:31 10 PMO reviews had been previously
15:57:33 11 discussed with you; isn't that correct?

15:57:35 12 A. Yes.

15:57:36 13 Q. They were the subject of
15:57:43 14 that May 2004 performance feedback
15:57:45 15 document that we discussed earlier;
15:57:47 16 isn't that correct?

17 A. Yes.

15:57:54 18 Q. Jumping down to item number
15:57:56 19 3, it says, "On February 3rd, 2005, I
15:57:58 20 sent you an email asking you to prepare
15:58:00 21 and submit a timeline for completion of
15:58:02 22 work regarding continuous coaters. I
15:58:07 23 did not receive a response or timeline
15:58:09 24 from you." Is that accurate?

15:58:11 25 A. No.

HOWARD A. HENRY

15:58:15 2 Q. How is it not accurate?

15:58:17 3 A. Sometimes we would have
15:58:19 4 conversations, and you couldn't --
15:58:20 5 sometimes you wouldn't respond to every
15:58:21 6 email, you would have conversations.
15:58:23 7 So most of the communication that
15:58:31 8 occurs due to the nature of the area
15:58:33 9 occurs in verbal discussions.

15:58:40 10 Q. Okay. As of June 24th,
15:58:43 11 2005, had you submitted to Mr. Katz a
15:58:46 12 timeline for completion of work
15:58:48 13 regarding continuous coaters? Yes or
15:58:50 14 no?

15:58:51 15 A. I don't recall.

15:58:54 16 Q. Okay. Moving down to number
15:58:56 17 4, "On February 9th, 2005, I sent you
15:59:01 18 an email requesting you to provide me a
15:59:03 19 timeline by February 16th, 2005 of
15:59:07 20 steps you were taking to resolve an
15:59:08 21 issue regarding percent loss/percent
15:59:11 22 gain, MIRs. I did not receive a
15:59:15 23 response or timeline from you." Is it
15:59:22 24 true you did not submit a timeline to
15:59:25 25 Mr. Katz?

1

HOWARD A. HENRY

15:59:25 2

A. I don't recall. I mean I

15:59:34 3

believe that we had a discussion and I

15:59:36 4

explained to him discussion what was

15:59:38 5

going to take place.

15:59:40 6

Q. And what was the discussion

15:59:42 7

about the timeline?

15:59:44 8

A. You know, I told him, I

15:59:46 9

said, you know, basically, it was

15:59:49 10

either in an email or discussion where

15:59:51 11

I told him that these are the steps

15:59:52 12

that we're going to take, this is what

15:59:54 13

we're working on now. So I didn't know

15:59:57 14

that I was being scrutinized like this

15:59:59 15

until I received this document.

16:00:02 16

So he made me aware this way

16:00:07 17

that he was scrutinizing me and wanted

16:00:10 18

me to answer and respond to each

16:00:13 19

individual email in a formal manner.

16:00:16 20

And there's a lot of informal

16:00:18 21

conversations that occurred to answer a

16:00:20 22

lot of these questions on this

16:00:21 23

document.

16:00:25 24

Q. A timeline is a fairly

16:00:27 25

formal thing though, correct?

1

HOWARD A. HENRY

16:00:29 2

A. Not in our area.

16:00:30 3

Q. It contemplates a written

16:00:33 4

product?

16:00:34 5

A. Not in our area it doesn't

16:00:35 6

mean that, not necessarily.

16:00:36 7

Q. Well did you interpret it to

16:00:38 8

mean anything other than a written

16:00:40 9

timeline?

16:00:40 10

A. I interpreted it to mean

16:00:42 11

that I need to discuss with him a

16:00:43 12

timeline, a time frame, if you will.

16:00:47 13

So we discussed it. I mean to me he

16:00:55 14

didn't explain to me where's the

16:00:57 15

timeline, Howard, where's the timeline.

16:00:59 16

It didn't go like that. I told him, he

16:01:01 17

said oh, okay, I got you.

16:01:03 18

Q. He said he asked you to

16:01:04 19

prepare and submit which suggests --

16:01:09 20

A. It suggests --

16:01:10 21

Q. That would be a written

16:01:12 22

product, to prepare and submit a

16:01:16 23

written timeline?

16:01:16 24

A. To me, like we give each

16:01:19 25

other, we have conversations and we

HOWARD A. HENRY

1
16:01:22 2 discuss things that, due dates on
16:01:25 3 things, and we discuss things. And
16:01:27 4 sometimes timelines are established
16:01:30 5 through conversation. I say I
16:01:33 6 contacted the vendor this day, he
16:01:35 7 should be coming on Monday, it should
16:01:37 8 be done by the 21st, you got any other
16:01:40 9 questions, no; moving right along.

16:01:46 10 Q. Item number 6, do you recall
16:02:07 11 discussing item number 6?

16:02:08 12 A. Yes.

16:02:09 13 Q. Is there anything in this
16:02:12 14 item 6 that is not accurate?

16:02:15 15 A. The part where it says, "It
16:02:32 16 was your responsibility to get the
16:02:33 17 document into GX Pharma in time for the
16:02:36 18 item to be completed by the deadline."

16:02:45 19 Q. What's inaccurate about that
16:02:47 20 statement?

16:02:47 21 A. When this particular item
16:02:48 22 was introduced it wasn't given to me as
16:02:50 23 an item that was my responsibility, it
16:02:52 24 was someone else's responsibility. So
16:02:57 25 at the eleventh hour it was given to

HOWARD A. HENRY

16:02:59 2 me.

16:03:00 3 Q. The eleventh hour being May
16:03:01 4 19th, 2005?

16:03:02 5 A. Meaning May 19th and it was
16:03:04 6 due June 3rd. So this actual item was
16:03:08 7 created early part of May and it was
16:03:13 8 given to me to complete within a week.

16:03:15 9 Q. So this --

16:03:16 10 A. Or two.

16:03:17 11 Q. So this statement, "It was
16:03:19 12 your responsibility to get the document
16:03:21 13 into GX Pharma in time for the item to
16:03:24 14 be completed by the deadline" --

16:03:26 15 A. Was not true at the initial
16:03:28 16 start of the item.

16:03:29 17 Q. But it's true as of May
16:03:30 18 19th?

16:03:30 19 A. May 19.

16:03:31 20 Q. -- 2005 it was your
16:03:33 21 responsibility?

16:03:34 22 A. Correct.

16:03:34 23 Q. Okay. Item number 7, "On
16:03:37 24 June 6th, 2005, I sent you an email to
16:03:40 25 proceduralize the occurrence of a

HOWARD A. HENRY

16:03:41 2 broken tool in an effort to reduce MIRs
16:03:44 3 with a due date of June 27th, 2005. As
16:03:48 4 of June 21st, 2005 you haven't opened
16:03:51 5 the email." Is there anything that is
16:03:58 6 not accurate about this statement?

16:04:00 7 A. I don't -- I don't know. I
16:04:20 8 mean I don't know if I opened it the
16:04:23 9 early -- the day before June or the day
16:04:25 10 of June 21st, I'm not sure.

16:04:27 11 Q. The final sentence on the
16:04:29 12 page reads "You have quadrupled the
16:04:31 13 number of absences, not including
16:04:33 14 vacation days taken, than any other
16:04:35 15 employee in the department and you
16:04:38 16 often call out with very little or no
16:04:42 17 notice which greatly impacts the
16:04:45 18 business's ability to operate
16:04:47 19 smoothly." Is there anything
16:04:48 20 inaccurate about that statement?

16:04:50 21 A. I always give notice, so
16:04:52 22 that's not true. I've always given
16:04:58 23 notice.

16:05:01 24 Q. Anything else?

16:05:14 25 A. Not that I can see at this

HOWARD A. HENRY

16:05:28 2 time.

16:05:28 3 Q. Okay. If you turn the page
16:05:30 4 to Page 2, dates of previous
16:05:33 5 discussions, January 12th, 2005, it
16:05:45 6 talks about the performance appraisal.
16:05:47 7 It also talks about a March -- it also
16:05:49 8 refers to a March 15th, 2005 email from
16:05:53 9 Andrew Espejo and a March 30th, 2005
16:05:59 10 discussion regarding PMOs. Do you see
16:06:03 11 that?

16:06:03 12 A. Yes.

16:06:04 13 Q. Did each of those
16:06:09 14 discussions in fact occur?

16:06:11 15 A. We discussed items but not
16:06:15 16 exactly the way in which this alludes
16:06:18 17 to.

16:06:20 18 Q. Can you elaborate on that?

16:06:22 19 A. I discussed a progress
16:06:25 20 review with Andrew Espejo on January
16:06:28 21 12th but I did not agree with the
16:06:31 22 assessment about the objective and how
16:06:35 23 he came to his conclusion. I did
16:06:38 24 discuss zone checklists with Andrew
16:06:43 25 Espejo on March 15th, and I explained

HOWARD A. HENRY

to him that there were some issues regarding with the supervisors and some issues with the zone checklists. And that train, the other train next to ours, PPU 2, had the same issues. So that singling me out was not -- and he didn't -- he didn't present to me that this particular problem would issue and warrant a PIP.

And finally as far as discussion regarding the PMO process and Max Katz and I ended it with the decision to track PMO signing off and that all these discussions were innocuous as far as I was concerned and didn't -- I didn't foresee them bringing a culmination to this particular PIP document.

Q. The improvement expectations listed, down below there are four items. Did you believe that each of these items was attainable by you?

A. No.

Q. Which item did you think was

HOWARD A. HENRY

16:08:00 2 not attainable?

16:08:01 3 A. Properly respond to PMOs
16:08:06 4 within two business days of receipt.
16:08:09 5 Sometimes when you get a PMO the PMO
16:08:12 6 may be a real thick document that must
16:08:15 7 be gone through line by line with the
16:08:17 8 mechanic. So sometimes that can't be
16:08:19 9 done within two days of receipt. And
16:08:23 10 if you get it late in the day that's
16:08:25 11 considered a full day and then the next
16:08:27 12 day you only have one day to review it,
16:08:29 13 so.

16:08:33 14 The zone checklist, that was
16:08:34 15 contingent upon the supervisors and I
16:08:36 16 explained to them that the supervisor
16:08:38 17 have to be on board because they're
16:08:41 18 responsible for getting to me at a
16:08:42 19 certain time. I told him I would send
16:08:48 20 out emails to remind people but I can't
16:08:50 21 be held accountable for these zone
16:08:52 22 checklists and when people go on
16:08:54 23 vacation they don't let me know.

16:08:57 24 As far as completing all the
16:09:00 25 signings in a timely manner, I've done

HOWARD A. HENRY

16:09:01 2 that and I've continued to do that. I
16:09:04 3 didn't agree with that particular
16:09:05 4 aspect of the review.

16:09:06 5 And as far as unscheduled
16:09:09 6 absences, I told him that the
16:09:12 7 specifitudes of life warrant one to
16:09:14 8 take time and accidents do happen and
16:09:16 9 things happen and come up at the last
16:09:19 10 minute, and as professionals we're
16:09:21 11 afforded this leeway, and throughout my
16:09:23 12 career I've never taken advantage of
16:09:26 13 it, but I've had to use it and we're
16:09:29 14 afforded the opportunity to use it, so
16:09:31 15 I've expressed that to them.

16:09:44 16 Q. Okay. If you look at the
16:09:45 17 bottom of that page, review sessions,
16:09:51 18 it indicates that there would be review
16:09:54 19 dates on July 6th, July 14th and July
16:09:57 20 25th, 2005. Did those meetings or
16:10:06 21 review sessions in fact occur?

16:10:09 22 A. I recall two review sessions
16:10:16 23 after that first meeting on June 24th.

16:10:19 24 Q. Okay. If you could turn
16:10:20 25 your attention to Exhibit 26, Page 3.

HOWARD A. HENRY

16:10:38 2 If you look under employee comments it
16:10:40 3 looks like on this document we now have
16:10:43 4 signatures all the way around dated
16:10:45 5 June 29th except under employee's
16:10:49 6 signature. If I can read this writing
16:10:57 7 properly it says "Howard did not want
16:10:59 8 to sign and asked for a couple days to
16:11:02 9 have it reviewed. As of July 29th,
16:11:05 10 2005 he responded he's drafting a
16:11:07 11 response to be submitted by July 1st,
16:11:11 12 2005." Do you recall saying that you
16:11:16 13 wouldn't be signing this document but
16:11:18 14 instead would be submitting some type
16:11:19 15 of response?

16:11:20 16 A. I recall saying that I need
16:11:23 17 time -- I didn't say that I would not
16:11:25 18 sign, I don't recall saying I did
16:11:27 19 not -- I would not sign. I recall
16:11:29 20 saying that I need to review it and I
16:11:34 21 remember submitting the other document,
16:11:36 22 Exhibit 25, and signing that and
16:11:38 23 putting that comment on there. But I
16:11:44 24 don't remember stating exactly how it
16:11:46 25 said here. But I did -- I didn't -- I

HOWARD A. HENRY

16:11:48 2 don't remember saying that I wouldn't
16:11:49 3 sign it. I remember saying that I
16:11:56 4 needed time to draft a response.

5 (Henry Exhibit 27 for
6 identification, Bates stamped 3772 and
7 3773.)

8 (Henry Exhibit 28 for
9 identification, Bates stamped 3724 and
16:12:46 10 3726.)

16:12:46 11 Q. Mr. Henry, I've put in front
16:12:47 12 of you two documents. One is marked
16:12:49 13 Exhibit 28. Exhibit 28 will be coming
16:13:01 14 momentarily. There you go. If you can
16:13:03 15 turn your attention to Exhibit 27,
16:13:04 16 which is Bates stamped 3772, it's dated
16:13:13 17 June 27th, 2005, and the subject line
16:13:15 18 is "Rebuttal to PIP program presented
16:13:18 19 on June 24th, 2005." This document is
16:13:25 20 not signed. It was not produced to us
16:13:30 21 on letterhead as was Exhibit 28. Do
16:13:33 22 you know what this document is? Is
16:13:35 23 this the final document or was this a
16:13:37 24 draft, do you know?

16:13:38 25 A. I don't -- I don't -- could

HOWARD A. HENRY

16:22:50 2 Andrew in a specific time, I told them
16:22:53 3 yes. Max said he would set up a
16:22:55 4 meeting between maintenance about how
16:22:57 5 to best handle the PMOs because he
16:22:59 6 wanted to stamp them and I told him you
16:23:02 7 can't stamp an official company
16:23:04 8 document like that without the first
16:23:05 9 approval of maintenance. He said he
16:23:07 10 would -- he would make up -- he would
16:23:09 11 make sure he would set up a meeting.

16:23:13 12 And it was a very brief
16:23:14 13 meeting. I expressed again that this
16:23:17 14 PIP was unwarranted.

16:23:20 15 And that was about all I
16:23:24 16 could remember at this time.

16:23:25 17 Q. Did Ms. Marasco tell you
16:23:30 18 that the PIP was not a disciplinary
16:23:36 19 tool, but instead a tool for corrective
16:23:40 20 action?

16:23:42 21 A. She did say that.

16:23:44 22 Q. When was -- and then you had
16:23:51 23 another meeting, correct, regarding the
16:23:54 24 PIP, in this PIP review process?

16:23:57 25 A. Yes.

HOWARD A. HENRY

16:26:02 2 person from now on.

16:26:04 3 Q. Were you told at this
16:26:05 4 meeting that you'd satisfied the
16:26:07 5 requirements of the PIP?

16:26:07 6 A. Yes.

16:26:08 7 Q. Were you told that you'd be
16:26:09 8 removed from the PIP?

16:26:10 9 A. Yes.

16:26:10 10 Q. Were you told that -- do you
16:26:21 11 remember being told anything else?

16:26:22 12 A. That I'd have to sustain a
16:26:25 13 certain level of compliance, if you
16:26:28 14 will, certain level of performance or I
16:26:33 15 can be placed back on it, and it can
16:26:36 16 lead to termination.

17 (Henry Exhibit 29 for
16:27:15 18 identification, Bates stamped 3727.)

16:27:15 19 Q. Mr. Henry, I've put in front
16:27:17 20 of you a document that's been marked
16:27:19 21 Henry Exhibit 29. It appears to be a
16:27:25 22 letter from Mr. Katz dated July 28th,
16:27:27 23 2005. Do you recall receiving this
16:27:29 24 letter?

16:27:29 25 A. Yes.

1 HOWARD A. HENRY

16:27:30 2 Q. And this letter notified you
16:27:31 3 that you'd been removed from the PIP?

16:27:33 4 A. Yes.

16:27:34 5 Q. Did you have any further
16:27:44 6 discussions with Mr. Katz, Mr. Espejo
16:27:47 7 or Mr. -- or Ms. Marasco regarding the
16:27:53 8 PIP?

16:27:53 9 A. Not that I can recall.

16:27:54 10 Q. Did you have any discussions
16:27:55 11 with anyone else other than your
16:27:57 12 counsel regarding the PIP?

16:27:59 13 A. I mentioned two individuals
16:28:03 14 before.

16:28:04 15 Q. Right. Other than those
16:28:06 16 individuals?

16:28:06 17 A. Not that I can recall.

16:28:07 18 Q. Okay.

16:28:12 19 A. If you wouldn't mind, may I
16:28:16 20 use the bathroom, is that all right?

16:28:20 21 MR. McQUADE: Sure, we'll
16:28:21 22 take a break.

16:28:23 23 THE VIDEO OPERATOR: Going
16:28:23 24 off the record at 4:28.

16:28:25 25 (A recess was taken.)

1 HOWARD A. HENRY

16:44:35 2 A. At times.

16:44:37 3 Q. And I think you told me in
16:44:39 4 2004 you believed that you should have
16:44:43 5 received a five rating?

16:44:46 6 A. In 2004, yes.

16:44:50 7 Q. So these symptoms you were
16:44:53 8 experiencing didn't affect your work
16:44:55 9 performance in any way, did they?

16:44:57 10 A. It affected, you know, what
16:45:02 11 I felt was my comfort level and my
16:45:09 12 ability but I worked through them, I
16:45:13 13 worked through it.

16:45:14 14 Q. 2005, what type of symptoms
16:45:18 15 were you experiencing?

16:45:21 16 A. Just real depressed, you
16:45:25 17 know, I just felt like there was
16:45:27 18 nothing -- no matter what I did it
16:45:29 19 wasn't good -- it wouldn't be good
16:45:31 20 enough. So it just got real, real bad
16:45:34 21 after that.

16:45:37 22 Q. Anything else in 2005?

16:45:39 23 A. Everything just escalated.
16:45:42 24 Everything just got --

16:45:43 25 Q. When did you -- when was

1

HOWARD A. HENRY

16:45:45 2

your last day at work at Wyeth?

16:45:48 3

A. August 2005.

16:45:53 4

Q. And --

16:45:54 5

A. I believe it was the 5th of

16:45:56 6

August actual physical work.

16:45:57 7

Q. At that time you submitted a

16:45:59 8

request for disability benefits?

16:46:03 9

A. Right, for leave.

16:46:10 10

Q. And why did you want to take

16:46:12 11

a leave?

16:46:12 12

A. Because things had taken its

16:46:14 13

toll.

16:46:14 14

Q. What had taken its toll?

16:46:16 15

A. What I had been going

16:46:17 16

through at Wyeth.

16:46:18 17

Q. And what was the toll? Can

16:46:21 18

you be more specific?

16:46:23 19

A. The overall physical

16:46:26 20

condition -- condition I was in. I

16:46:29 21

mean I didn't -- I just was severely

16:46:32 22

depressed. I had irritable bowel

16:46:35 23

syndrome. My heart at sometimes I felt

16:46:37 24

like it was racing, you know,

16:46:40 25

uncontrollably at times. I mean I

1

HOWARD A. HENRY

16:46:44 2 would sit at my desk and my palms would
16:46:46 3 get all sweaty, I would just break out
16:46:48 4 in sweats and chills. I mean there
16:46:50 5 was -- there was a lot of things that
16:46:52 6 started happening to me that didn't
16:46:54 7 happen before.

16:46:58 8 Q. Is there anything else, any
16:47:00 9 other symptoms?

16:47:00 10 A. I had severe anxiety, like
16:47:04 11 it was like I wanted to do everything
16:47:06 12 perfect and I -- and I didn't want to
16:47:08 13 fail at anything, so I got hyper just
16:47:10 14 in terms of just preparing documents
16:47:11 15 and getting this done and trying to do
16:47:14 16 -- being three places at one time and I
16:47:16 17 couldn't keep up with that pace and it
16:47:19 18 took its toll.

16:47:20 19 Q. So you decided to take a
16:47:22 20 disability leave?

16:47:23 21 A. Well, it was recommended by,
16:47:30 22 you know, the individual, the doctor
16:47:32 23 was talking to me and the health care
16:47:33 24 provider was talking to me, I told them
16:47:36 25 what I was going through. I explained

1

HOWARD A. HENRY

16:54:39 2

Q. Do you know if benefits were

16:54:40 3

denied?

16:54:41 4

A. For Workmen's Comp?

16:54:44 5

Q. Yes.

16:54:46 6

A. They were pending at this

16:54:48 7

point.

8

9

16:54:58 10

(Henry Exhibit 34 for
identification, Bates stamped D 00571
and 572.)

16:54:58 11

Q. I'll show you a document

16:54:58 12

which has been marked Henry Exhibit 34.

16:55:26 13

Do you recall receiving this document

16:55:28 14

which is a letter dated January 10th,

16:55:31 15

2006, from Littece Culler?

16:55:37 16

A. Yes.

16:55:38 17

Q. If you look at the second

16:55:47 18

paragraph, second sentence, it says

16:55:50 19

"Unless you submit appropriate medical

16:55:51 20

documentation indicating your ability

16:55:53 21

to return to work within a reasonable

16:55:55 22

and defined period of time, your

16:55:57 23

employment will be terminated effective

16:56:00 24

February 6th, 2006." Do you remember

16:56:04 25

reading that?

HOWARD A. HENRY

16:56:05 2 A. Yes.

16:56:06 3 Q. Did you ever obtain any type
16:56:11 4 of medical -- any additional medical
16:56:15 5 documentation from any of your doctors
16:56:17 6 who were treating you and provide it to
16:56:20 7 Wyeth?

16:56:20 8 A. And provided it to Wyeth?

16:56:22 9 Q. Yes.

16:56:23 10 A. Before this date?

16:56:24 11 Q. Yes.

16:56:29 12 A. I'm not sure I provided it
16:56:31 13 to Wyeth. I think I provided it to
16:56:33 14 Workmen's Comp, but I don't think -- I
16:56:36 15 don't think so.

16 16 (Henry Exhibit 35 for
16:56:39 17 identification, Bates stamped D 00575.)

16:56:39 18 Q. Okay. I'm going to show you
16:56:40 19 a document that's been marked Henry
16:56:41 20 Exhibit 35, which is a February 7th,
16:56:52 21 2006 letter from Martin Allen. Do you
16:56:57 22 remember receiving this document?

16:56:57 23 A. Yes.

16:56:58 24 Q. Okay. And this document --
16:57:00 25 if you look at the second paragraph of

HOWARD A. HENRY

1
16:57:02 2 this document it says "To date, Wyeth
16:57:05 3 still has received no medical
16:57:06 4 documentation from you. In response to
16:57:08 5 Ms. Culler's January 10th, 2006 letter.
16:57:12 6 Therefore, consistent with the standard
16:57:14 7 Wyeth practices your employment with
16:57:16 8 Wyeth is terminated effective Monday,
16:57:19 9 February 6th, 2006." At this date you
16:57:23 10 still hadn't submitted any medical
16:57:25 11 documentation to Wyeth?

16:57:27 12 A. Not at this -- not at this
16:57:29 13 point.

16:57:32 14 Q. Is there any reason why you
16:57:33 15 didn't submit medical documentation to
16:57:36 16 Wyeth?

16:57:37 17 A. Based on the treatment I
16:57:42 18 received when I was at Wyeth and based
16:57:45 19 on how I was received at Wyeth, at that
16:57:49 20 point I didn't feel it would -- it
16:57:51 21 would be conducive for me to return.

16:57:54 22 Q. Were you capable of
16:57:56 23 returning at that point?

16:58:00 24 A. To perform the same
16:58:02 25 functions, to feel the same way I was

HOWARD A. HENRY

17:26:00 2 A. Yes.

3 (Henry Exhibit 39 for
4 identification, Bates stamped 2224
17:26:27 5 through 2230.)

17:26:27 6 Q. Mr. Henry, I put before you
17:26:27 7 another document that's been marked
17:26:29 8 Exhibit 39. Do you recognize this
17:26:32 9 document?

17:26:33 10 A. Yes.

17:26:44 11 Q. Did you receive a copy of
17:26:46 12 this document during your employment?

17:26:49 13 A. I recall signing it. I
17:26:51 14 don't know if I got a copy.

17:26:53 15 Q. Okay. Well I can represent
17:26:56 16 to you that this document was produced
17:26:57 17 to us by your counsel.

17:27:16 18 A. It was produced by counsel?

17:27:17 19 Q. Your counsel.

17:27:19 20 A. Okay.

17:27:20 21 Q. Do you recall reading this
17:27:25 22 document?

17:27:25 23 A. I don't know if I -- I don't
17:27:32 24 know if I read it completely. I don't
17:27:41 25 even recall if at the time I understood

1 HOWARD A. HENRY

17:27:43 2 it.

3 (Henry Exhibit 40 for
17:27:56 4 identification, Bates stamped D 00067.)

17:27:56 5 Q. Okay, Mr. Henry, I'm putting
17:27:57 6 before you a document that's been
17:27:58 7 marked Exhibit 40 regarding the
17:28:03 8 harassment policy. If you'd look at
17:28:09 9 the bottom, towards the bottom of the
17:28:12 10 page is an acknowledgment. It says
17:28:15 11 "This is to acknowledge that I've read
17:28:16 12 the procedures above and received a
17:28:18 13 copy of Wyeth's equal employment
17:28:21 14 opportunity policy, harassment and
17:28:22 15 discrimination policy, complaint
17:28:24 16 procedure for unlawful discrimination
17:28:26 17 and harassment, Americans With
17:28:31 18 Disabilities Act policy, assurance of
17:28:32 19 fair treatment policy and open door
17:28:34 20 policy." Is that your signature down
17:28:44 21 below?

17:28:44 22 A. Yes.

17:28:44 23 Q. So does this refresh your
17:28:46 24 recollection as to whether you read and
17:28:47 25 understood those policies?

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HOWARD A. HENRY

17:28:49 2

A. Well I read it, but I don't

17:28:50 3

-- I can't say I completely understood

17:28:51 4

them.

17:28:52 5

Q. Did you understand that you

17:28:53 6

had the right to make complaints with

17:29:03 7

management and HR if you felt that you

17:29:05 8

were being discriminated against?

17:29:07 9

A. Say that for me once more.

17:29:12 10

Q. Did you understand that you

17:29:14 11

had the right to make complaints to

17:29:16 12

either Wyeth management or HR if you

17:29:20 13

felt that you had been discriminated

17:29:23 14

against?

17:29:23 15

A. I learned of that right,

17:29:24 16

yes.

17:29:25 17

Q. When did you learn of that

17:29:27 18

right?

17:29:28 19

A. As I started to proceed with

17:29:31 20

the process of what was occurring with

17:29:37 21

me in 2003.

17:29:41 22

Q. Did you --

17:29:42 23

A. As a result of going through

17:29:43 24

what I'm going through.

17:29:44 25

Q. So are you saying, are you

1 HOWARD A. HENRY

17:29:45 2 telling me that before 2003 you didn't
17:29:46 3 know that you had the right --

17:29:50 4 A. It wasn't -- it wasn't
17:29:51 5 something that we paid attention to.
17:29:52 6 You knew you had certain inalienable
17:29:56 7 rights but you just don't really give
17:29:58 8 it much thought until you actually have
17:29:59 9 to execute and use some of that. So it
17:30:02 10 wasn't a thought that, you know, I paid
17:30:04 11 that much attention to.

17:30:15 12 Q. Do you recall if you read
17:30:16 13 this document before you signed it,
17:30:20 14 referring to Exhibit 40?

17:30:22 15 A. I can't say that I recall
17:30:30 16 reading it and scrutinizing it like I
17:30:32 17 am now. I mean we were given a lot of
17:30:34 18 things to sign sometimes and sometimes
17:30:36 19 just because we have a deadline to meet
17:30:38 20 to get it in by a certain date you may
17:30:40 21 just glance over it and sign it.

17:30:55 22 MR. McQUADE: Mark that,
17:30:56 23 please.

24 (Henry Exhibit 41 for
25 identification, Bates stamped 2312